

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

JOSEPH R. CHOQUETTE

v.

MICHAEL J. ASTRUE, Commissioner
of Social Security

:
:
:
:
:
:

C.A. No. 08-384ML

ORDER

Before the Court for determination is Plaintiff's Motion to Proceed In Forma Pauperis (Document No. 2) without paying the \$350.00 civil case filing fee. See 28 U.S.C. § 1915. Plaintiff's Motion is supported by a detailed affidavit outlining Plaintiff's income and monthly expenses. For the following reasons, Plaintiff's Motion is GRANTED in part and he is only partially excused from paying the civil case filing fee of \$350.00 required by 28 U.S.C. § 1914.

The financial information provided by Plaintiff indicates that he is currently unemployed and has no dependents. He owns and lives in a mobile home. He owns two pickup trucks – a restored 1968 which he owns and is valued at \$10,000.00 and a 2004 which has a \$6,000.00 loan balance. He has normal monthly household expenses including the lot lease for his mobile home, his truck payment and payments on \$4,000.00 in credit card debt. The issue that prevents this Court from excusing Plaintiff completely from the filing fee is that he reports \$4,500.00 in cash on hand and \$50,000.00 in an IRA which he is drawing on. He also owns two vehicles which have a total value of approximately \$20,000.00.

While it appears that Plaintiff is making IRA withdrawals by necessity and not choice, he has a substantial amount of cash on hand and chooses to maintain and insure two vehicles with value. Accordingly, this Court cannot conclude that Plaintiff is completely unable, due to poverty,

to pay some of the civil case filing and still provide for his household expenses. Thus, Plaintiff's Application is GRANTED but only in part. Plaintiff shall pay a partial filing fee of \$175.00 (one-half of the normal \$350.00) by November 30, 2008. Plaintiff is advised that failure to pay this partial filing fee as ordered will result in dismissal of his case.

/s/ Lincoln D. Almond
LINCOLN D. ALMOND
United States Magistrate Judge
October 16, 2008